FIRST READING: Mai. 20, 2012 SECOND READING: Dec. 4, 2012

## ORDINANCE NO. <u>38</u>, 2012

# AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, TO ADOPT CHAPTER 8.37 OF THE COLUMBUS CITY CODE, SMOKING REGULATIONS

WHEREAS, Indiana Code 36-1-3 et. seq. confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government; and

WHEREAS, Indiana Code 36-4-6-18 authorizes the Common Council of the City of Columbus, Indiana to pass such ordinances, orders, resolutions and motions as may be necessary and proper for the governmental unit to fulfill and satisfy the responsibilities and duties of said governmental unit; and

**WHEREAS**, the City repealed Chapter 8.36 of the Columbus City Code, regulating smoking within the City, on August 28, 2012 after the State adopted Indiana Code 7.1-5-12, Prohibition on Smoking, which is overall stricter and superseded the majority of Chapter 8.36 of the Columbus City Code pursuant to Indiana Code 7.1-5-12-13(b); and

WHERAS, pursuant to Indiana Code 7.1-5-12-13(a), a city may adopt an ordinance more restrictive than Indiana Code 7.1-5-12; and

WHEREAS, the City of Columbus finds and declares the purpose of this ordinance is: (1) to protect the public health and welfare of the community by further prohibiting smoking in public places and places of employment not covered by the Indiana Code; (2) to guarantee the right of nonsmokers to breathe smoke-free air; and (3) to recognize that the need to breath smoke-free air shall have priority over the desire to smoke; and

**WHEREAS**, it is the desire of the Common Council for this community to not only follow all provisions of Indiana Code 7.1-5-12 but to further restrict smoking beyond that required by the state law.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF COLUMBUS, INDIANA, AS FOLLOWS:

**Section I.** Chapter 8, Article 37 of the Columbus City Code, Smoking Regulations, is hereby adopted to read as follows:

### Chapter 8.37

#### SMOKING REGULATIONS

8.37.010	State of Indiana, Prohibition on Smoking Code, Recognized
8.37.020	Further Restrictions on Smoking Regulations
8.37.030	Violations and Penalties
8.37.040	Enforcement

#### 8.37.010 State of Indiana, Prohibition on Smoking Code, Recognized.

Chapter 7.1-5-12 of the Indiana Code, Prohibition on Smoking, as adopted July 1, 2012, and all amendments thereto, are recognized and all definitions set forth under the Indiana Code are adopted herein.

#### 8.37.020 Further Restrictions on Smoking Regulations.

Indiana Code 7.1-5-12-13(a) allows a city to adopt a smoking ban ordinance more restrictive than Chapter 7.1-5-12 of the Indiana Code, Prohibition on Smoking. Therefore, smoking is further prohibited in the following:

- (A) All premises, structures, facilities, establishments, and stores listed as an exception under Indiana Code 7.1-5-12-5(a)(1)-(5), (7), and (9)-(10), starting immediately upon the adoption of this ordinance; and
- (B) All private clubs defined under 7.1-5-12-5(a)(6) and all bars and/or taverns defined under 7.1-5-12-5(a)(8) starting June 1, 2013.

#### 8.37.030 Violations and Penalties.

- (A) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Chapter.
- (B) Any person who violates any provision of this Chapter shall be subject to a fine of Fifty Dollars (\$50) for each finding of a violation of this Chapter.

#### 8.37.040 Enforcement.

- (A) Violations of restrictions set forth under 8.37.020 shall be enforced by the City of Columbus Police Department or an authorized designee.
- (B) Any citizen who desires to register a complaint under this Chapter may initiate enforcement with the City of Columbus Police Department.

**Section II.** All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

**Section III.** The adoption of the Smoking Regulation Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

ADOPTED BY THE COMMON COUNCIL OF TH day of December, 2012, by a vote of ayes and _	E CITY OF COLUMBUS, INDIANA, on this the $\frac{L}{2}$ nays.
	Kristen Brown, Mayor Presiding Officer of the Common Council
ATTEST:  Clerk of the Common Council of Columbus, Indiana Luann Welmer	
Presented by me to the Mayor of Columbus, $3.50$ o'clock $\underline{P}$ .m.	Indiana, this 5th day of December, 2012 at  Luann Welmer Clerk-Treasurer

Approved and signed by me this  $\underline{5\%}$  day of December, 2012 at  $\underline{3.50}$  o'clock  $\underline{\Psi}$  .m.

Kristen Brown

Mayor of the City of Columbus, Indiana